

REMARKS

This amendment accompanies the filing of a Request for Continued Examination (RCE) and is responsive to the final Office action of August 4, 2010.

Claims 1 and 22 have been amended. Support for these amendments can be found throughout the application, for example, in FIGS. 4 and 8 and corresponding sections of the specification. No new subject matter has been added.

Claims 1-11 and 22-31 are pending.

Claim Rejections – 35 U.S.C. 112

The Office action rejected claims 1-7, 9-11 and 22-31 under 35 U.S.C. §112, first paragraph, because the phrase “wherein inner edges of the peripheral recesses extend at least in part along an overlap line” in claim 1 was allegedly unclear and not supported by the specification. In order to advance prosecution, and without prejudice, Applicant has amended claim 1 to clarify its subject matter. Applicant respectfully requests that the rejections under 35 U.S.C. §112, first paragraph be withdrawn.

Claim Rejections – 35 U.S.C. 103

Claims 1-7, 9-11, 22, 25-28, 30 and 31 were rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 2,153,911 (Benedetti) in view of U.S. Patent 3,482,765 (Probst).

Claim 1, as amended, recites a blank that includes connection edges extending along overlap regions which are interconnectable for shaping a container. At least one peripheral recess, which is open to the outside, is formed in each of the overlap regions. The blank has a first overlap line and a second overlap line, where, upon connection of the overlap regions, the first connection edge substantially aligns with the second overlap line and the second connection edge substantially aligns with the first overlap line. An inner edge of one of the overlapping peripheral recesses extends at least in part along the first overlap line and an inner edge of

another one of the overlapping peripheral recesses extends at least in part along the second overlap line.

An example of the claimed subject matter is shown in FIG. 4 of the present application, which shows a blank 1 that includes connection edges 6, 7 extending along overlap regions 8, 9 which are interconnectable for shaping a container, similar to container 2 shown in FIG. 8. A peripheral recess 10, open to the outside, is formed in each of the overlap regions 8, 9. A first overlap line 19 and a second overlap line 20 are shown such that, when the overlap regions 8, 9 are connected together, the first connection edge 6 substantially aligns with the second overlap line 20 and the second connection edge 7 substantially aligns with the first overlap line 19. An inner edge 21 of the left overlapping peripheral recess 10 extends just about entirely along the first overlap line 19 and an inner edge 21 of the right overlapping peripheral recess 10 extends just about entirely along the second overlap line 20.

In a typical implementation, the claimed subject matter provides a blank that can be used to produce a substantially rigid container that has one or more large inspection openings through which the contents of the container can be viewed.

Neither the Benedetti patent nor the Probst patent, alone or in any reasonable combination, discloses or renders obvious the claimed subject matter.

The Benedetti patent discloses a container A with a body 5, one side of which has an inspection window. *See* FIG. 1. In particular, one side wall 6 of the body 5 is built with overlapping portions 8, 9, one of which is cut (at 10) to form a window, which is sealed with a transparent strip 11. Col. 2, lines 5-15.

The Office action concedes that the Benedetti container A lacks a recess formed in each of the overlapping portions 8, 9, as recited in claim 1.

The Benedetti container A also lacks an inner edge of a peripheral recess extending at least in part along an overlap line, as recited in claim 1. The "overlap line" according to amended claim 1 is a line with which one of the connection edges substantially aligns when the overlap regions are connected. The inner edge of the cut (at 10) in Benedetti's overlapping portion 9 does not extend at least in part along a line with which the edge of overlapping portion 8 substantially aligns when the overlap regions are connected. Instead, the inner edge of the cut

(at 10) in Benedetti's overlapping portion 9 is displaced from the edge of overlapping portion 8 by the entire width of the window in the container A.

Thus, the Benedetti patent does not disclose an inner edge of a peripheral recess extending at least in part along an overlap line, as recited in claim 1. For at least the same reasons, the Benedetti patent does not disclose that:

- (1) an inner edge of a first one of overlapping peripheral recesses extends at least in part along a first overlap line; and
- (2) an inner edge of a second one of the overlapping peripheral recesses extends along a second overlap line, as recited in claim 1.

Nor would it have been obvious to modify the Benedetti container, in view of the Probst patent, to obtain the claimed subject matter. Indeed, as discussed below, the subject matter that is missing from the Benedetti patent also is missing from the Probst patent.

The Probst patent discloses a contribution envelope (*see, e.g.*, FIG. 1) with openings in the back of the envelope, but not the front of the envelope, so that articles (*e.g.*, contributions) inside the envelope can be seen from the back of the envelope, but not the front of the envelope.¹

The Probst envelope is formed from a blank (*see, e.g.*, FIG. 1) that has side flaps 10, 12 and a bottom flap 8. Col. 2, lines 3-14. Each side flap 10, 12 has a groove 14, 20 and the bottom flap 8 has two grooves 16, 18. When the side flaps 10, 12 and the bottom flap 8 are folded inwardly, the envelope of FIG. 2 is produced. This envelope has a pair of openings, one of which is formed by the overlapping of grooves 18 and 20, the other of which is formed by the overlapping of grooves 14 and 16.

As shown in FIG. 2 of the Probst patent, with the flaps 8, 10, 12 folded inwardly, the inner edges of grooves 14 and 20 do not extend at least in part along an overlap line, (*i.e.*, a line with which an edge of the flap 8 substantially aligns when the flap 8 is folded inwardly), as recited in claim 1. Instead, the lines with which the edges of flap 8 substantially align are substantially below the inner edges of grooves 14 and 20.

¹ This analysis of the Probst patent focuses on the embodiment shown in FIGS. 1 & 2 of the Probst patent because this is the embodiment that the Examiner seems to have focused on in the Office action. The analysis, however, is equally applicable to the embodiment shown in FIGS. 3 & 4 of the Probst patent.

Likewise, the inner edges of grooves 16 and 18 do not extend at least in part along an overlap line (*i.e.*, one of the lines with which an edge of either flap 10 or 12 substantially aligns when the flaps 10, 12 are folded inwardly), as recited in claim 1. Instead, each line with which each respective edge of the flaps 10, 12 substantially aligns is at a substantial distance from an inner edge of the corresponding groove 16 or 18.

Thus, the envelope in FIGS. 1 and 2 of the Probst patent does not have an inner edge of a peripheral recess extending at least in part along an overlap line, as recited in claim 1. This envelope also does not have:

1. an inner edge of a first one of overlapping peripheral recesses that extends at least in part along a first overlap line; and
2. an inner edge of a second one of the overlapping peripheral recesses that extends along a second overlap line, as recited in claim 1.

Claim 1 is allowable for at least the foregoing reasons.

Claims 2-7 and 9-11 depend from claim 1 and, therefore, should be allowable for at least the same reasons as claim 1.

Claims 22, 25-28, 30 and 31 also were rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 2,153,911 (Benedetti) in view of U.S. Patent 3,482,765 (Probst).

Claim 22 has been amended to recite subject matter similar to the subject matter in claim 1, discussed above. More particularly, claim 22 now recites a container with a container wall formed from a blank. The blank includes first and second connection edges. Each connection edge extends along a respective overlap region and has at least one peripheral recess. The connection edges are attached at the overlap regions. The blank has a first overlap line and a second overlap line, wherein upon connection of the overlap regions, the first connection edge substantially aligns with the second overlap line and the second connection edge substantially aligns with the first overlap line. At least one inspection opening is formed by at least partially overlapping peripheral recesses in the overlap regions. An inner edge of one of the overlapping peripheral recesses extends at least in part along the first overlap line and an inner edge of a second one of the overlapping peripheral recesses extends along the second overlap line.

As discussed above, the cited references, alone or in combination, do not disclose or render obvious the claimed subject matter.

Claim 22 should be allowable for at least the foregoing reasons.

Claims 25-28, 30 and 31 depend from claim 22 and, therefore, should be allowable for at least the same reasons as claim 22.

Claims 23, 24 and 29 were rejected under 35 U.S.C. §103(a) as unpatentable over Benedetti and Probst in view of either U.S. Patent No. 5,031,826 (Seufert) or U.S. Patent No. 6,378,763 (Nelson).

Claims 23, 24 and 29 depend from claim 22, which recites a container with a container wall formed from a blank. The blank includes first and second connection edges. Each connection edge extends along a respective overlap region and has at least one peripheral recess. The connection edges are attached at the overlap regions. The blank has a first overlap line and a second overlap line, wherein upon connection of the overlap regions, the first connection edge substantially aligns with the second overlap line and the second connection edge substantially aligns with the first overlap line. At least one inspection opening is formed by at least partially overlapping peripheral recesses in the overlap regions. An inner edge of one of the overlapping peripheral recesses extends at least in part along the first overlap line and an inner edge of a second one of the overlapping peripheral recesses extends along the second overlap line.

As discussed above, neither Benedetti nor Probst, alone or in combination, discloses or renders obvious the claimed subject matter.

Nor do the relied upon portions of Seufert or Nelson, alone or in combination with any of the other cited references, disclose or render obvious the claimed subject matter. Indeed, the relied upon portions of Seufert and Nelson do not disclose the subject matter discussed above that is missing from Benedetti and Probst. Nor does the Office action allege anything to the contrary.

The Office action appears to rely on the Seufert patent for merely disclosing a container with a base 4 and a window. *See* FIGS. 5 and 8-10. Moreover, the Office action appears to rely

on the Nelson patent for merely disclosing a container that includes a label ply 15 that may have various indicia printed thereon. Col. 5, lines 1-5.

Thus, the relied upon portions of Seufert and Nelson patents do not disclose the subject matter discussed above that is missing from Benedetti and Probst.

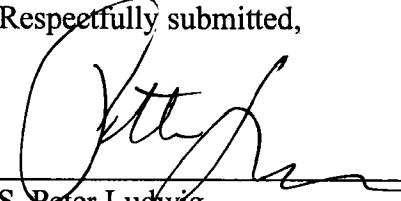
Claims 23, 24 and 29 should be allowable for at least the foregoing reasons.

It is believed that all rejections of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

A petition for a one-month extension of time is enclosed. The required petition fee in the amount of \$130 and the RCE fee in the amount of \$810 are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date 12-6-10


S. Peter Ludwig
Reg. No. 25,351

Customer Number 26,211
Fish & Richardson P.C.
Telephone (212) 765-5070
Facsimile (877) 769-7945